

General Terms and Conditions of Sale of Spiraltec GmbH**1. Scope**

1. These General Terms and Conditions of Sale apply only to entrepreneurs in the exercise of their commercial or self-employed professional activity and to legal entities under public law. They apply to all business transactions between Spiraltec GmbH (hereinafter "**Spiraltec**") and the Customer, even if reference is not made hereto in subsequent agreements. They apply in the same way to both work and services. In place of delivery of the products supplied, in the case of performance consisting of work, acceptance takes place upon approval of the work and in the case of services, upon receipt of the services.
2. Conditions of the Customer that conflict with, supplement or deviate from these General Terms and Conditions of Sale shall not become part of the contract, unless Spiraltec would have agreed, in writing, to their validity. These General Terms and Conditions of Sale also apply if Spiraltec, in full knowledge of conflicting, supplementary or deviating conditions, unconditionally performs a delivery to the Customer.
3. Conflicting, supplementary or deviating agreements to these General Terms and Conditions of Sale, agreed by Spiraltec and the Customer in execution of a contract must be set forth in the contract, in writing. This also applies to the annulment of this written form requirement.
4. This is without prejudice to any rights to which Spiraltec is entitled under statutory rules or other agreements going beyond the provisions of these General Terms and Conditions of Sale.

2. Conclusion of Contract

1. Offers from Spiraltec are subject to alteration and are non-binding, unless they are expressly agreed to be binding, in writing.
2. Illustrations, drawings, weights, dimensions, performance and use data, as well as other descriptions of the products contained in the documents forming part of the offer, are approximations only, unless these are expressly stated to be binding. Such information does not constitute any agreement or guarantee of corresponding characteristics or durability of the products, unless they were expressly agreed to be such, in writing. Expectations of the Customer with respect to the products or the use thereof do not constitute any agreement or guarantee.
3. Spiraltec reserves all ownership, copyright and other proprietary rights in the offer documentation, in particular in diagrams, drawings, calculations, prospectus, catalogues, models, samples and tools. Such documents are not permitted to be disclosed to third parties. The Customer must immediately return all offer documentation to Spiraltec at its request, provided such documentation is no longer required in the ordinary course of business.
4. An order is binding only once it has been confirmed by Spiraltec by written order confirmation within two weeks or if Spiraltec performs the order, in particular if Spiraltec fulfils the order by sending the products. An order confirmation issued with the assistance of automated equipment that does not feature a signature or name shall be deemed to be in writing. Spiraltec's silence in response to offers, orders, requests or other declarations by the Customer shall be deemed to constitute consent only if this was agreed in advance and in writing. An order confirmation shall not be binding on Spiraltec if it contains obvious errors, typing errors or miscalculations.
5. If the Customer's financial situation deteriorates significantly or if a justified application for the initiation of insolvency proceedings or similar proceedings in respect of the Customer's assets is rejected due to lack of assets, Spiraltec shall be entitled to withdraw from the contract, in whole or in part.

3. Scope of Service and Acceptance

1. The written order confirmation issued by Spiraltec is decisive for the scope of service. Changes made to the scope of service by the Customer must be confirmed, in writing, by Spiraltec in order to become effective. Alterations by Spiraltec to the construction and form of products are reserved insofar as these are industry-standard deviations; if such deviations are within the DIN tolerance thresholds; or insofar as the changes are not substantial and are reasonable for the Customer. The same applies to the selection of the materials, the specifications and the construction method.
2. Customer expectations concerning the products or the use thereof do not constitute any agreed characteristics or guarantee, unless this has been explicitly agreed, in writing.
3. Delivery in parts is permissible unless such delivery in parts is not reasonable for the Customer, giving due consideration to the interests of Spiraltec.
4. The Customer is obliged to formally accept work services from Spiraltec. The Customer may not refuse formal acceptance due to insignificant defects. Formal acceptance shall be effected by the signature of the acceptance protocol by the Customer. Formal acceptance shall be deemed equivalent in particular if the Customer does not accept the work services within a reasonable period of time set by Spiraltec, although he is obliged to do so, or if the Customer puts the products into operation or uses them in any other way. Spiraltec is also entitled to demand partial acceptance.

4. Delivery Time

1. Delivery times (delivery periods and dates) are agreed in writing. Delivery periods and deadlines are not binding, unless Spiraltec states, in advance and in writing, that these are binding.
2. The delivery period begins upon conclusion of the contract, but not before the provision of all documentation, the signature of the technical specifications by the Customer, approvals and releases to be provided by the Customer, the clarification of all technical issues, as well as the receipt of an agreed advance payment or, in the case of an overseas transaction, receipt of full payment. In the case of a delivery date, the date shall be postponed by a reasonable period if the Customer fails to provide the documents to be procured by it on time; if release is not granted on time; if all technical issues have not been fully clarified on time; if the agreed advance payment or, in the case of an overseas transaction, the entire payment, has not been received by Spiraltec. Compliance with the delivery period is contingent on the timely and proper fulfilment of the other obligations of the Customer.
3. The delivery time is complied with if the products have left the plant by the time the period expires or Spiraltec has provided notice of readiness for collection or dispatch. Compliance with the delivery time is subject to proper, in particular, timely, supply to Spiraltec, unless Spiraltec is responsible for the improper supply to it. In the event of improper or delayed supply to it, Spiraltec shall be entitled to withdraw from the contract. Spiraltec shall notify the Customer immediately if it exercises its right of withdrawal and shall return any advance payments made by the Customer.
4. In the case of default in delivery, the Customer is entitled, upon expiry of a reasonable subsequent period set by it towards Spiraltec once delivery became delayed, to withdraw from the contract.

5. Cross-Border Deliveries

1. In the case of cross-border deliveries, the Customer must submit to the competent authorities all necessary declarations and take all actions required for export from Germany and import into the destination state. It must, in particular, procure the documents required for customs clearance and comply with the requirements of any export controls or other restrictions on marketability.
2. The deliveries are subject to the condition that the performance is not precluded by any impediments based in national or international regulations, in particular export control provisions, as well as embargoes or other sanctions.

6. Prices and Payment

1. In the absence of any agreement to the contrary, all prices are ex works and do not include shipping, packaging, insurance, statutory taxes, customs or other charges. The costs incurred in this context, in particular the costs of packaging and transportation of the products, will be invoiced separately. VAT at the statutory rate will be shown separately on the invoice in the amount applicable on the invoice date.
2. In the absence of any specific agreement, all prices are payable net within 30 days of the invoice date. The day upon which Spiraltec is able to freely dispose of the delivery price is deemed to be the payment date. In the case of default in payment, the Customer must pay default interest in the amount of 9 %-age points above the basic rate of interest p.a. in each case. This is without prejudice to any further claims of Spiraltec.
3. In the case of overseas transactions, in derogation from subsection 2, payment is to be made prior to delivery, unless otherwise agreed in advance and in writing.
4. In the event of the unjustified cancellation of an order, Spiraltec is entitled to charge a cancellation fee of 10% of the net order value, provided the Customer is not able to demonstrate that the damage was less than this amount. This does not affect any further claims of Spiraltec.

7. Transfer of Risk

1. The risk of the accidental loss and deterioration passes to the Customer as soon as the products are handed to the party carrying out transportation, or leave the Spiraltec warehouse for the purposes of shipping. In the case of collection by the Customer, the risk passes to the Customer upon notification of readiness for collection. Sentence 1 and sentence 2 apply also if delivery is made in parts or if Spiraltec provides additional services, such as the transport costs or installation of the products at the Customer's premises.
2. If the Customer is in default of acceptance, Spiraltec may demand compensation of the loss incurred, as well as reimbursement of any additional expenses, unless the Customer is not responsible for the non-acceptance of the products. In particular, Spiraltec is entitled at the Customer's expense to store the products for the duration of the delay in acceptance. The costs of storing the products shall be charged at a lump sum of 0.5% of the net invoice amount per calendar week commenced. This is without prejudice to any further claims of Spiraltec. The Customer has the right to furnish evidence that Spiraltec did not incur any costs or that the costs incurred were lower. The same applies if the Customer breaches other cooperation duties, unless the Customer is not responsible for such breach of other cooperation duties. The risk of the accidental loss or deterioration of the products passes to the Customer at the latest at the time it enters into default of acceptance. Spiraltec is entitled, upon fruitless expiry of a reasonable deadline set by Spiraltec to otherwise dispose of the products and to deliver to the Customer with a reasonably extended deadline.
3. If the dispatch is delayed on account of circumstances beyond the control of Spiraltec the risk shall pass to the Customer upon notification of readiness for dispatch.
4. Delivered products with minor defects must be accepted by the Customer, without prejudice to its claims to defects.

8. Claims for Defects

1. The Customer's claims for defects are contingent upon the Customer having inspected the products on receipt - where reasonable also by means of trial processing or trial use - and having notified any obvious defects to Spiraltec without delay, but no later than two weeks from receipt of the products, in writing. Concealed defects must be notified to Spiraltec in writing, immediately upon discovery. In its notification to Spiraltec, the Customer must provide a written description of the defects. The Customer's claims based on defects are furthermore conditional upon its compliance during planning, construction, assembly, installation, start-up, operation and servicing of the products, the Customer must at all times comply with the specifications, notes, directives and conditions set forth in the technical notes, assembly instructions, operating guidelines, planning interpretation guidelines and other documents for the individual products; it must, in particular, carry out maintenance work properly and furnish evidence that maintenance has been carried out, and use recommended components.
2. Customary deviations from the agreed condition, deviations due to legal provisions and technical improvements do not establish claims for defects, provided the agreed intended use is not impeded.
3. In the case of defective products, Spiraltec shall at its discretion be entitled to provide subsequent performance in the form of the rectification of the defect or the supply of a defect-free product. In the case of subsequent performance, Spiraltec is required to bear all expenses, in particular transport, travel, work and material costs incurred in the course of the subsequent performance, provided these are not higher due to the products being brought to a location other than the delivery address. Personnel and costs of materials claimed by the Customer in this connection are to be calculated at cost price. Replaced parts become the property of Spiraltec and must be returned to Spiraltec.
4. If Spiraltec is not willing or able to provide subsequent performance, the Customer can, without prejudice to any claims to compensation or reimbursement of expenses, at its discretion withdraw from the contract or reduce the delivery price. The same applies if the subsequent performance is unsuccessful, unreasonable for the Customer or, for reasons within Spiraltec's control, is delayed by more than a reasonable period.
5. The Customer's right of withdrawal is excluded if it is unable to return the service rendered and this is not attributable to the fact that the return is impossible on account of the nature of the service received; Spiraltec is responsible for the impossibility of return; or if the defect only became evident during the processing or remodelling of the products. The right of withdrawal is furthermore excluded if Spiraltec is not responsible for the defect and if the Customer is required, instead of returning the product or service, to pay compensation for the value.
6. Defects attributable to natural wear and tear, in particular in wearing parts, attributable to incorrect handling, fitting, use or storage or incorrectly performed alterations or repairs to the products by the Customer or third parties do not establish claims for defects. The same applies to defects attributable to the Customer, in particular if the defect is based on unusual chemical, physical or thermal impact that the Customer did not notify to Spiraltec, in writing. The same applies to defects attributable to a technical cause other than the original defect.
7. Claims by the Customer for reimbursement of expenses in place of compensation instead of performance are excluded where a reasonable third party would not have incurred such expenses.
8. Spiraltec does not assume any guarantees, in particular does not assume any guarantees concerning the characteristics or durability of the products, unless otherwise agreed, in writing, in individual cases.
9. The statute of limitation for the Customer's claims for defects is one year, unless there is a consumer goods purchase at the end of the supply chain. The limitation period of one year applies to claims in tort based on a defect in the products. The limitation period begins upon delivery of the products. The one-year limitation period does not apply to Spiraltec's unlimited liability for damage attributable to the breach of a guarantee or relating to damage to life, limb or health, for intentional acts and gross negligence and for product faults, or if Spiraltec assumed a procurement risk. A statement by

Spiraltec concerning a claim for defects asserted by the Customer is not to be viewed as constituting entry into negotiations concerning the claim or the circumstances giving rise to the claim, provided Spiraltec rejects the claim for defects in full.

9. Liability of Spiraltec

1. Spiraltec is liable without restriction for damage attributable to the breach of a guarantee or damage to life, limb or health. The same applies to intentional acts and gross negligence or if Spiraltec assumed a procurement risk. Spiraltec is liable for slight negligence only in the event of the breach of material contractual duties which are inherent to the nature of the contract and which are of particular significance for the fulfillment of the contractual purpose. In the event of the breach of such duties and in the case of default and frustration, Spiraltec's liability is limited to such damage as can be typically expected within the framework of this kind of contract. Mandatory statutory liability for product defects remains unaffected.
2. If Spiraltec's liability is excluded or limited, this also applies to the personal liability of its employees, workers, staff, representatives and vicarious agents of Spiraltec.

10. Product Liability

1. The Customer will not alter the products, in particular, it will not amend or remove existing risk warnings concerning improper use of the products. In the event of any breach of this duty, the Customer shall in the internal relationship release Spiraltec from third-party product liability claims, unless the Customer is not responsible for the alteration of the products.
2. If, due to product defect, Spiraltec is required to carry out a product recall or issue a product warning, the Customer will to the best of its ability assist in all such measures considered necessary and expedient by Spiraltec and support Spiraltec in this, in particular in determining the necessary customer information. The Customer is required to bear the costs of the product recall or the warning, unless it was not responsible for the product defect pursuant to product liability law principles. This is without prejudice to any further claims of Spiraltec.
3. The Customer will without delay notify Spiraltec in writing of any risks in the use of the products and possible product faults that it identifies in the course of its use of the products.

11. Force Majeure

1. If Spiraltec is prevented by force majeure from fulfilling its contractual duties, in particular from delivering the products, Spiraltec will, for the duration of the impediment and for a reasonable start-up time, be released from its performance obligation, without being required to pay the Customer compensation. The same applies if Spiraltec is prevented from fulfilling its obligations by unforeseeable circumstances beyond Spiraltec's control, in particular if industrial action, official measures, energy shortages, obstacles to supply by a subcontractor or significant disruptions to operations render performance unreasonably hampered or temporarily impossible. The same applies if such circumstances are encountered by subcontractors. This also applies if Spiraltec is already in default. Insofar as Spiraltec is released from the delivery obligation, Spiraltec shall return any advance payments made by the Customer.
2. Spiraltec shall be entitled to withdraw from the contract if such impediment lasts more than four months and Spiraltec is no longer interested in performing the contract as a result of the impediment. On request by the Customer, Spiraltec will declare on expiry of the four months period whether Spiraltec intends to make use of its right of withdrawal or deliver the products within a reasonable period.

12. Retention of Title

1. The delivered products remain the property of Spiraltec until such time as the purchase price has been paid in full and all claims to which Spiraltec is entitled against the Customer in relation to the business relationship have been settled. The Customer is required to treat the products subject to retention of title with due care for the duration of the retention of title. It is required, in particular, at its own expense to insure those products against fire, water damage and theft at replacement value. The Customer must on request by Spiraltec furnish evidence of the conclusion of such insurance. The Customer already now assigns to Spiraltec all claims to compensation under such insurance. Spiraltec hereby accepts the assignment. If assignment is not permissible, the Customer hereby instructs the insurer to make any payments only to Spiraltec. This is without prejudice to any further claims of Spiraltec.
2. The Customer is permitted to sell the products subject to retention of title only in the course of ordinary business operations. In addition, the Customer is not entitled to pledge the products subject to retention of title, to transfer the same by way of security or to make other dispositions that could jeopardise Spiraltec's ownership rights. In the case of seizures or other third-party interventions, the Customer must notify Spiraltec without delay and provide all necessary information, notify the third party of Spiraltec's ownership rights and participate in the measures undertaken by Spiraltec to protect the products subject to retention of title. If the third party is not in a position to reimburse to Spiraltec the judicial and extrajudicial costs of enforcing Spiraltec's ownership rights, the Customer is required to compensate Spiraltec for the resulting loss, unless the Customer is not responsible for the third-party intervention on the products subject to retention of title.
3. The Customer already now assigns all claims relating to the resale of the products, together with all ancillary rights, to Spiraltec irrespective of whether the products subject to retention of title are resold without or after processing. Spiraltec hereby accepts such assignment. If such assignment is not permissible, the Customer hereby instructs the third-party debtor to make any payments only to Spiraltec. The Customer is authorised - such authorisation subject to revocation - to collect the claims assigned to Spiraltec in a fiduciary capacity in its own name. The sums collected are to be transferred to Spiraltec immediately. Spiraltec can revoke the collection authorisation of the Customer, as well as the Customer's authorisation to resell the products, for good cause, in particular if the Customer fails to properly fulfil its payment obligations in respect of Spiraltec, if it is in default of payment, ceases to make payments or if the initiation of insolvency proceedings or comparable debt settlement proceedings has been requested with respect to the Customer's assets or the justified application by a third party for the initiation of insolvency proceedings or comparable debt settlement proceedings concerning the Customer's assets is rejected due to lack of assets. In the case of global assignment by the Customer, the claims assigned to Spiraltec are to be expressly excluded.
4. At Spiraltec's request, the Customer is required to notify the third-party debtor of the assignment without delay and to procure for Spiraltec the information and documentation required in order for Spiraltec to collect the claims.
5. In the event of the breach of contractual duties, in particular in the event of default of payment by the Customer, Spiraltec is entitled, irrespective of its other rights, on expiry of a reasonable additional deadline to be set by Spiraltec to withdraw from the contract. The Customer must grant Spiraltec or its agents immediate access to the products subject to the retention of title and surrender those products. Following appropriate timely announcement, Spiraltec can otherwise utilise the products subject to the retention of title in order to satisfy its due claims against the Customer.
6. Even where the Customer is required to bear the costs of tools, it does not acquire ownership or other rights in the tools, unless otherwise agreed, in writing.
7. The processing or remodelling of the products subject to the retention of title by the Customer is at all times carried out on Spiraltec's behalf. The Customer's vested right in the products subject to the retention of title continues in the processed or remodelled item. If the products are processed or remodelled together with other items that do not belong to Spiraltec, Spiraltec shall acquire joint ownership in the new item proportional to the value of the supplied products to the other processed items at the time of processing or remodelling. The same applies if the products are combined or mixed with other items not owned by Spiraltec such that Spiraltec loses its full ownership. The Customer will store the new items for Spiraltec. In addition, the same provisions apply to items created through processing or remodelling, as well as by combination or mixture, as for the products subject to retention of title.
8. At the Customer's request, Spiraltec is required to release the securities to which it is entitled to the extent that the realisable value of the securities, taking account of customary banking valuation discounts, exceed Spiraltec's claims relating to the business relationship with the Customer by more than 10 %. The valuation shall be based on the invoice value of the products subject to retention of title and the nominal value of the claims. Spiraltec is entitled to select which items are to be released.
9. In the case of deliveries to other jurisdictions in which the foregoing provisions on the retention of title do not have the same security effect as in Germany, the Customer hereby grants Spiraltec a corresponding security right. If further measures are necessary to this end, the Customer will do everything within its power to grant Spiraltec such security right without delay. The Customer will participate in all measures necessary and expedient to the validity and enforceability of such security rights.

13. Confidentiality

1. The parties are required for the duration of five years from delivery to maintain strict confidentiality with respect to all information to which they become privy and which is designated confidential or can be identified as business or trade secrets based on other circumstances, and, unless necessary in the course of business dealings between the parties, not to record, disclose or utilise this information.
2. The confidentiality obligation does not apply if the information was demonstrably already known to the recipient prior to commencement of the contractual relationship or was generally known or publicly available prior to commencement of the contractual relationship or, through no fault on the part of the recipient, becomes generally known or publicly accessible. The burden of proof is borne by the recipient.
3. The parties shall ensure by means of suitable contractual agreements with the employees and agents acting on their behalf, in particular with freelance staff, plants and service providers, that they, too, for five years from delivery, refrain from any and all personal use, disclosure or unauthorised recording of such business and trade secrets.
4. The reciprocal exchange of information, in particular the transfer of data or drawings, samples or other documentation does not entail any transfer of ownership, copyright or other proprietary rights.

14. Data Protection

1. The parties mutually undertake to comply with the statutory provisions on data protection, in particular the EU General Data Protection Regulation ("GDPR") in the execution of the contract and to impose compliance with these provisions on their employees.
2. The parties process the personal data received (names and contact details of the respective contact persons) exclusively for the fulfillment of the contract and will secure them by technical security measures adapted to the current state of the art (Art. 32 GDPR). The parties undertake to delete the personal data as soon as their processing is no longer necessary. Any statutory storage obligations shall remain unaffected.
3. Should Spiraltec in the context of the contract process personal data in order of and for the Customer, the parties will conclude an agreement on the order processing pursuant to Art. 28 GDPR.

15. Final Provisions

1. The Customer is entitled to transfer rights and duties to third parties only with Spiraltec's prior written consent.
2. Counterclaims of the Customer entitle it to set-off only if these claims have been legally determined or are uncontested. The Customer can assert a retention right only if its counterclaim is based on the same contractual relationship.
3. The legal relationship between the Customer and Spiraltec is governed by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
4. The exclusive place of jurisdiction for all disputes relating to the business dealings between the Customer and Spiraltec is Spiraltec's registered seat. Spiraltec is also entitled to file suit at the seat of the Customer and at any other permissible place of jurisdiction. Any arbitration clauses are hereby rejected.
5. Unless otherwise agreed, the place of performance for all performance owed by the Customer and by Spiraltec is the registered seat of Spiraltec.
6. The contractual language is English.
7. Should any provision of these General Terms and Conditions of Sale be or become invalid or unenforceable, in whole or in part, or if there proves to be an omission in these General Terms and Conditions of Sale, this shall not affect the validity of the remainder of the provisions. In place of the invalid or unenforceable provision, the valid or enforceable provision is deemed agreed that comes as close as possible to fulfilling the purpose of the invalid or unenforceable provision. In the event of an omission, the provision is deemed agreed that corresponds to what would have been agreed, in view of the purpose of these General Terms and Conditions of Sale, had the parties considered the matter from the outset.